IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3784 OF 2007

Shri Digambar S. Nimankar. ..Petitioner.

V/s.

Shri Vitthal Govind Nimankar. ..Respondent.

Mr.A.Y.Sakhare with Sidarth Karpe i/b. M/s.YKS Legal for petitioner.

CORAM: A.M.KHANWILKAR,J

DATE : JULY 4, 2007.

P.C. :

1. Heard counsel for the petitioner.

2. I see no reason to depart from the view taken by the Courts below. In so far as direction to the defendant to pay deficit stamp duty plus penalty as per Rule according to the law for impounding the document dated 8th November, 1966 is in terms of section 34 of the Bombay Stamp Act.

3. Counsel for the petitioner however, contends that impounding of document is permissible only in terms of section 33(A) of the Bombay Stamp Act, which postulates of impounding of instruments after registration of document. The document in question was not registered document, for which reason,

impounding was not permissible. This argument does not commend to me.

4. In the present case, the defendant filed an application under Order 13, Rule 8 of the Code, which authorises the Court to impound such document for sufficient cause and or to be kept in its custody or the officer of the Court on such terms, as may be warranted. It is not in dispute that the document directed to be impounded is an agreement. That agreement was required to be registered as per the provisions of Registration Act r/w. provisions of Bombay Stamp Act. If such document is not registered, the Court is authorised in terms of provisions of Order 13 Rule 8 of the Code. Thus no interference is warranted.

5. Hence dismissed.